

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Greg Finch	Team: Squad #9	CCRB Case #: 201804102	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 01/16/2017 11:30 PM	Location of Incident: § 87(2)(b)	Precinct: 10	18 Mo. SOL 7/16/2018	EO SOL 7/16/2018	
Date/Time CV Reported Tue, 05/22/2018 3:39 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Tue, 05/22/2018 3:39 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Robert Humann	10077	956749	010 PCT
2. SGT Devon Davis	00603	948012	010 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Thomas Mcmanus	03667	948171	010 PCT
2. POF Allyssa Hasemann	17079	957664	010 PCT
3. POM Patrick Collins	13268	963923	010 PCT
4. POM Kevin Martinez	27696	945958	010 PCT
5. POM Joseph Zinna	08091	953607	010 PCT
6. POM Frederick Tinao	05284	947542	010 PCT
7. DTS Conor Farrell	4069	936572	ESS 01
8. DTS Robert Mcgee	01498	933983	ESS 01

Officer(s)	Allegation	Investigator Recommendation
A.SGT Devon Davis	Abuse: On January 16, 2017, Sergeant Devon Davis entered § 87(2)(b) in Manhattan.	§ 87(2)(b)
B.SGT Devon Davis	Abuse: On January 16, 2017, Sergeant Devon Davis searched § 87(2)(b) in Manhattan.	§ 87(2)(b)
C.POM Robert Humann	Abuse: On January 17, 2017, Police Officer Robert Humann entered § 87(2)(b) in Manhattan.	§ 87(2)(b)
D.POM Robert Humann	Abuse: On January 17, 2017, Police Officer Robert Humann searched § 87(2)(b) in Manhattan.	§ 87(2)(b)

### Case Summary

On May 22, 2018, § 87(2)(b) filed this complaint in-person at the CCRB.

On January 16, 2017, at approximately 11:30 p.m., § 87(2)(b) and his ex-girlfriend, § 87(2)(b) engaged in a domestic dispute inside of § 87(2)(b) apartment, located at § 87(2)(b) in Manhattan. After § 87(2)(b) told § 87(2)(b) to leave the apartment, she called 911 from the apartment hallway. Police Officer Robert Humann of the 10<sup>th</sup> Precinct, Sergeant Devon Davis and other officers from the 10<sup>th</sup> Precinct and ESU arrived. Sgt. Davis PO Humann and officers entered § 87(2)(b) and seized § 87(2)(b) property, which included a shotgun (**Allegation A – Abuse of Authority:** § 87(2)(g)). After ESU left, Sgt. Davis and PO Humann searched § 87(2)(b) and seized additional property (**Allegation B – Abuse of Authority:** § 87(2)(g)). § 87(2)(b) was arrested for § 87(2)(b).

On January 17, 2017, PO Humann and officers from the 10<sup>th</sup> Precinct executed Search Warrant § 87(2)(b) and entered and searched § 87(2)(b) in Manhattan (**Allegation C – Abuse of Authority:** § 87(2)(g), **Allegation D – Abuse of Authority:** § 87(2)(g)).

No video footage was available for this incident.

### Findings and Recommendations

**Allegation A – Abuse of Authority: On January 16, 2017, Sergeant Devon Davis entered § 87(2)(b) in Manhattan.**

**Allegation B – Abuse of Authority: On January 16, 2017, On January 16, 2017, Sergeant Devon Davis searched § 87(2)(b) in Manhattan.**

According to § 87(2)(b) he ejected § 87(2)(b) from his apartment before she stayed 30 days at his residence and could invoke squatters' rights (Board Review 01). § 87(2)(b) lives in a NYCHA building. § 87(2)(b) was under the influence of alcohol, and § 87(2)(b) denied threatening her with a knife. § 87(2)(b) believes that § 87(2)(b) called 911 and reported that he had a shotgun in his apartment, although he did not hear her make this call. § 87(2)(b) was in the process of replacing the locks on his door with a screwdriver when he heard knocking on his apartment door. He opened the door and saw ESU officers assembled in the hallway, who told § 87(2)(b) to exit the apartment and he complied. § 87(2)(b) was handcuffed and escorted around the corner of the hallway. § 87(2)(b) did not see officers enter or search his apartment, but he later learned that officers entered his apartment and seized a shotgun and knives. § 87(2)(b) was transported to the 10<sup>th</sup> Precinct stationhouse and lodged in a holding cell, where an officer told him that the Manhattan ADA told officers to “redo the search” and that a search warrant was being generated for January 17, 2017. When this search warrant was executed, a second search of § 87(2)(b) apartment was conducted, during which cane swords were seized.

Although the 911 audio was unavailable by the time § 87(2)(b) filed this complaint, the investigation obtained a copy of the Event Information (Board Review 19). § 87(2)(b) neighbor, § 87(2)(b) called in a complaint because of the dispute in the hallway, and Sgt. Davis requested ESU to the location because of a possible shotgun and BB guns inside the apartment. § 87(2)(b) declined to provide a statement to the CCRB but in an email to the CCRB said that § 87(2)(b) was abusive to her and believes that the NYPD did not commit misconduct during this incident (Board Review 02; Board Review 20).

According to PO Humann, he responded to a family dispute call at § 87(2)(b) and spoke to § 87(2)(b) in the hallway outside (Board Review 04). § 87(2)(b) told the officers that § 87(2)(b) had dragged her out of the apartment, threatened to kill her with a large

knife and that § 87(2)(b) had “a shotgun in the apartment.” After officers knocked on the apartment door to no response, PO Humann called for his supervisor and ESU to respond to the location, and waited with § 87(2)(b) in the hallway. Thirty minutes later, Sgt. Davis and ESU arrived. When ESU officers arrived, § 87(2)(b) provided verbal consent to Sgt. § 87(2)(b) to enter the apartment and produced a state ID that listed the apartment as her address (Board Review 18). PO Humann did not hear this exchange, but Sgt. Davis communicated it to him. ESU officers secured the § 87(2)(b) door and told § 87(2)(b) to exit the apartment. § 87(2)(b) opened the apartment door independently and walked into the hallway with his hands up. An ESU officer handcuffed § 87(2)(b). PO Humann and ESU officers entered § 87(2)(b) and did a protective sweep for persons inside § 87(2)(b). Rooms searched included § 87(2)(b) bedroom, hallway, pantry and kitchen. Inside the bedroom, PO Humann saw a knife stuck between a dresser and a wall. Inside the bedroom, there was an opened hallway closet with a shotgun, two air pistols inside an open dresser drawer and ACS badge in plainview on the closet floor. § 87(2)(b) confirmed that the recovered knife was the one that § 87(2)(b) threatened them with. The ADA assigned to § 87(2)(b) arrest requested a search warrant for the apartment for PO Humann and officers to do a deeper search of the apartment for weapons. During the execution of the January 17, 2017 search warrant, PO Humann and other officers recovered ammunition and large knives in drawers, a samurai sword on the wall and multiple cane swords in an umbrella stand from § 87(2)(b) apartment.

Sgt. Davis' § 87(2)(g) said that § 87(2)(b) told him that she had been living in the apartment for a few months, produced both New York State ID and mail in the apartment with her name and the address listed (Board Review 17). § 87(2)(b) told the officers that § 87(2)(b) was in the apartment and that he had a shotgun inside the apartment, but did not specify where the shotgun was. Sgt. Davis did not recall if he or any officer asked § 87(2)(b) who was in the apartment or if additional persons were inside the apartment. Sgt. Davis was the supervisor on scene, and supervised the entry, search, and seizure of weapons over the course of the January 16, 2017 incident.

§ 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

According to People v. McBride, 14 N.Y. 3d 440 (2010), (Board Review 08) an officer may enter a private residence without a warrant or consent in the presence of exigent circumstances, which is determined by the following factors: (1) the gravity or violent nature of the offense with which the suspect is to be charged; (2) whether the suspect is reasonably believed to be armed; (3) a clear showing of probable cause...to believe that the suspect committed the crime; (4) strong reason to believe that the suspect is in the premises being entered; (5) likelihood that the suspect will escape if not swiftly apprehended; (6) and the peaceful circumstances of the entry.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation C – Abuse of Authority: On January 17, 2017, Police Officer Robert Humann entered § 87(2)(b) in Manhattan.**

**Allegation D – Abuse of Authority: On January 17, 2017, Police Officer Robert Humann searched § 87(2)(b) in Manhattan.**

It is undisputed that on January 17, 2017, PO Humann and officers entered and searched § 87(2)(b) in Manhattan.

As per the New York State Search Warrant § 87(2)(b), sworn by PO Humann, and signed by the § 87(2)(b) (Board Review 03), officers were permitted to enter and search § 87(2)(b) apartment between the hours of 6:00 a.m. and 9:00 p.m. without prior notice in order to search for evidence of the possession of firearms and ammunition.

Article 690.50 of the Criminal Procedure Law (Board Review 05) permits officers who have obtained a valid judge-issued search warrant to enter and search a location.

§ 87(2)(g)

#### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been a party.
- PO Humann has been a member-of-service for 5 years and this is the second CCRB complaint to which he has been a subject.
  - In case #201709632, the Board substantiated a taser allegation and recommended Command Discipline A. CTS does not list the NYPD disposition.
- Sgt. Davis has been a member-of-service for 10 years and has been a subject of four CCRB complaints with four allegations, none of which were substantiated.

#### **Mediation, Civil and Criminal Histories**

- § 87(2)(b) declined mediation.

- As of December 26, 2018, there has been no Notice of Claim filed regarding this incident with the NYC Comptroller's office (Board Review 06).

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[REDACTED]  
[REDACTED]  
[REDACTED]

---

Squad No.: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature Print Title & Name Date

Squad Leader: \_\_\_\_\_  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date